IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 609 OF 2006
IN
CRIMINAL APPLICATION NO. 110 OF 2006
IN
CRIMINAL APPEAL NO. 1551 OF 2003

Manoj Narayan Bhalekar ..Applicant
(Ori. Accused No.1)

versus

State of Maharashtra ..Respondents

Mr. S. V. Marwadi for the Applicant / Original Accused No.1.

Mrs. M. M. Deshmukh, APP for the Respondents - State.

CORAM : D. G. DESHPANDE, J.

DATE : 9TH NOVEMBER, 2006

P.C. (In Chamber):

1. Heard.

2. This is an application for bail. I had earlier rejected the bail application of the applicant - original accused No.1 on merits by my order dated 13.8.2004, as per Exhibit 'A' of this Application. However, Mr. Marwadi raised two contentions, firstly, the applicant - accused No.1

is in custody for more than 5 years and 5 months i.e. from 12.4.2001. The Appeal is of 2003 and it is not likely to come up for hearing atleast for couple of years more. Sentence imposed is 7 years and fine of Rs.5 lakhs in default R.I. for one year. Secondly, he contended that the co-accused i.e. original Accused No.4 has been granted bail by the Supreme Court ultimately. He further states that in the case of co-accused - original accused No.4, the amount of Rs.5 lakhs fixed earlier was reduced by this court to Rs.1 lakh by **order dated 8.2.2005 (V. M. Kanade, J.) in Criminal Application No. 449 of 2005 in Criminal Appeal No. 124 of 2004 Nilratan Radhakaman Mukherjee vs. State of Maharashtra.**

3. The learned APP on the earlier date was asked to find the criminal antecedents against the applicant - original accused No.1. Now, therefore she states that two criminal cases were pending against the applicant - accused No.1 in addition to the present one. However, Mr. Marwadi contended that the applicant - accused No.1 has been acquitted in both the cases and the learned APP has not contradicted him in that regard and she confirm the

same, to the contrary.

4. Therefore, looking to the fact that the sentence awarded is 7 years and fine and out of which the applicant - accused No.1 has already undergone sentence of more than 5 years and 5 months, that the appeal is not likely to be heard within a couple of years and that the co-accused i.e. original accused No.4 has been granted bail, this application is required to be allowed even though on merits the application was rejected by me more than two years back i.e. on 13.8.2004. Mr. Marwadi further contended that even the sentence of fine is required to be suspended because heavy fine of Rs.5 lakhs will be impossible for the applicant - accused No.1 to pay and since the condition of furnishing bond of Rs.5 lakhs is reduced to Rs.1 lakh with sureties by this Court as per the order dated 8.2.2005 (V. M. Kanade, J.) in the case of co-accused i.e. original accused No.4, stated above, the sentence of fine be suspended.

5. In the result, I pass the following order:

ORDER

. Application is allowed. Applicant - Original Accused No.1 be released on his P.R. bond of Rs.1,00,000/- (Rupees One lakh only) with two or more solvent sureties in the like amount. He will hand over his passport to the Investigating Officer, before he is released on bail. Applicant - accused No.1 to attend the concerned police station twice in a month i.e. in the 1st week and 3rd week between 4 to 6 p.m. till the Appeal is decided on merits. Substantive sentence as well as sentence of fine is suspended pending Appeal. Application is disposed of accordingly.

(D.G. DESHPANDE, J.)